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~~August 12, 1992~~

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AUG 12 1992

Ms. Donna Searcy, Secretary
Federal Communications Commission
1919 M Street, N.W.
Washington, D.C. 20554

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Re: **NARUC EX PARTE COMMENTS - Two Copies Filed In the Proceeding Titled:**

In the Matter of Policies and Rules Concerning Interstate 900 Telecommunications Services

RM-7990

Dear Ms. Searcy:

On April 30, 1992, thirty-four states joined with the 900 Subcommittee of the Consumer Protection Committee of the National Association of Attorneys General and asked the FCC to clarify the pay-per-call rules issued in Docket No. 91-65. The petition asked the FCC to clarify that all pay per call services must conform to the FCC's rules regardless of whether they are offered as 900, 800 or some other dialing sequence. Subsequently, on June 2, 1992, the FCC released a Notice asking for comment and advising that the Petition would be treated as a petition for rulemaking rather than as a pleading in CC Docket No. 91-65. The comment cycle ended on July 28, 1992.

On July 29, 1992, the day after the comment cycle closed, the National Association of Regulatory Utility Commissioners ("NARUC") adopted a resolution which provided information on NARUC positions relevant to this proceeding.

Accordingly, I am, pursuant to 47 C.F.R.1.1206(1), submitting, for the record, two copies of this letter. I have attached a copy of the July Resolution on Pay Per Call Rules Clarification and Modification for your information and use.

No. of Copies rec'd 071
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*Member of the Executive Committee of the Association.

There are a few aspects of the resolution that I would like to call to the Commission's attention.

As I'm sure you are aware, some information providers solicit calls by the use of "free" 800 inward WATS lines which (i) direct callers to 900 numbers, (ii) otherwise induce callers to continue calls to 900 numbers, or (iii) induce some other action which results in the caller being billed charges reflected in the form of a standard "900 number" charge from an IXC or a separate billing agent.

Certain of these 800 pay per call services are not complying with the FCC's Pay Per Call Order, and, in some instances, are using deceptive and misleading tactics to induce callers to complete the call resulting in a bill for the call. Callers often remit charges because of confusion or concern that non-payment may threaten the availability of telephone service.

A number of states have responded to such circumstances by filing lawsuits against the specific service providers under their respective state consumer protection laws.

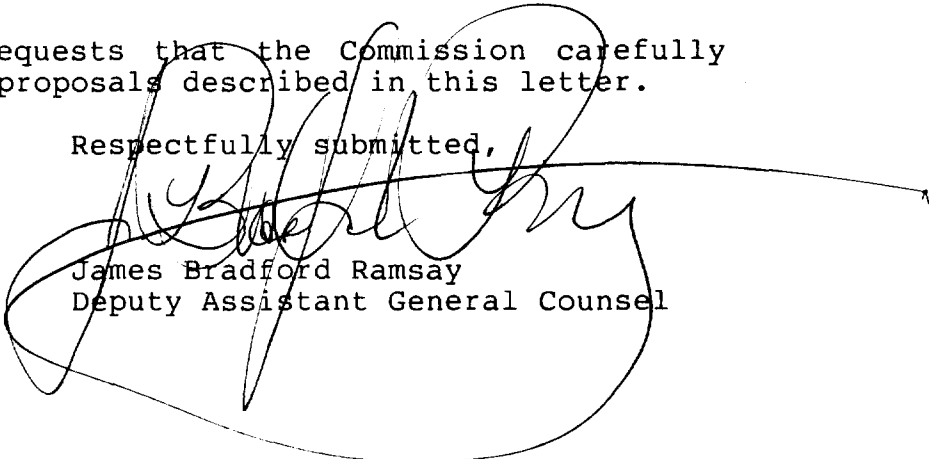
Under these circumstances, NARUC urges the FCC to do the following:

- o Prohibit the practice of interstate carriers providing standard inward interstate services, such as, inward interstate WATS 800 number service, for customers that bill end users on a pay per call basis.
- o If the FCC determines not to impose such a prohibition, then its Pay Per Call regulations should be clarified to state that the pay per call rules apply when such services are offered over any inward interstate service.

Moreover, in line with our previous position in CC Docket 91-65, NARUC OPPOSES ANY FCC RULES THAT WOULD PRELUDE STATES FROM ADOPTING OR ENFORCING ADDITIONAL SAFEGUARDS AND/OR MORE STRINGENT RULES.

NARUC respectfully requests that the Commission carefully examine and implement the proposals described in this letter.

Respectfully submitted,


James Bradford Ramsay
Deputy Assistant General Counsel

NARUC'S JULY 1992

Resolution on Pay Per Call Rules Clarification and Modification

WHEREAS, Pay Per Call Information Services generally refer to a telecommunications service which allows the simultaneous calling by large numbers of end users to a single "900/976" prefixed telephone number and the calling party is charged for the call at a rate different from, and often higher than, that charged for ordinary long distance calls for goods and/or services; and

WHEREAS, The provision of pay per call service usually involves four parties: 1) the interexchange carrier (IXC) who provides tariffed transmission service and tariffed or non-tariffed billing and collection service; 2) the information provider (IP) or sponsor who provides the service, entertainment, information, or product and sets the price to the caller; 3) the local exchange carrier (LEC) who by contract or tariff provides billing and collection service from the IXC on behalf of the IP; and 4) the service bureau that takes service from the IXC on behalf of the IP; and

WHEREAS, The Federal Communications Commission (FCC) has issued a notice of proposed rulemaking in CC Docket No. 91-65; and

WHEREAS, The 900 Subcommittee of the Consumer Protection Committee of the National Association of Attorneys General (NAAG) and thirty-four states filed a Petition for Clarification and Modification of the FCC's pay per call rules in Docket No. 91-65 on April 30, 1992; and

WHEREAS, The FCC released Public Notice on June 2, 1992 advising that the Petition would be treated as a petition for rulemaking rather than as a filing in CC Docket No. 91-65 and all comments and replies should refer to RM-7990; and

WHEREAS, There are pay per call information providers soliciting calls by the use of "free" 800 inward WATS lines whereby callers are then directed to 900 numbers or induced to continue calls to 900 numbers or to take some other action resulting in the caller being billed charges reflected in the form of a standard "900 number" charge from an IXC or a separate billing agent; and

WHEREAS, Certain of these 800 pay per call services are not complying with the FCC Pay Per Call Order (6 FCC Record 6166, October 23, 1991), and, in some instances, are using deceptive and misleading tactics to induce callers to complete the call resulting in a bill for the call, and the callers often remit charges because of confusion or concern that non-payment may threaten the availability of telephone service; and

WHEREAS, A number of states have responded to such circumstances by filing lawsuits against the specific service providers under their respective state consumer protection laws; and

WHEREAS, Thousands of businesses and government agencies regularly promote toll free 800 services, and therefore consumers equate 800 numbers with free service; and

WHEREAS, The use of 800 numbers for pay per call services circumvents the FCC's 900 number blocking provisions mandated in the Pay Per Call Order; now, therefore, be it

RESOLVED, By the National Association of Regulatory Utility Commissioners (NARUC), assembled at its summer committee meetings in Seattle, Washington, that it recommend that the FCC Order resulting from the Petition of the NAAG prohibit the practice of interstate carriers providing standard inward interstate services, such as, inward interstate WATS 800 number service, for customers that bill end users on a pay per call basis; and be it further

RESOLVED, That if the FCC allows inward interstate services to be used on a pay per call basis then the Pay Per Call Order should be clarified to state that the pay per call rules apply when such services are offered over any inward interstate service; and be it further

RESOLVED, That the NARUC opposes FCC rules precluding states from the adoption of additional safeguards and/or more stringent rules; and be it further

RESOLVED, That the NARUC General Counsel will file comments concerning NARUC's position on RM-7990 with the FCC and will distribute this resolution for consideration.

Sponsored by the Committee on Communications
Adopted by the Executive Committee July 1992.